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9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

11

12 JOHN D. THOMAS,) Case No. 8:23-cv-00236-DOC-JDE
13 Plaintiff,) Assigned for all purposes to:
14 vs.)
15 LEAGLE, INC., a former Arkansas) **NOTICE OF DEFAULT AND**
corporation; and DOES 1-25,) **REQUEST FOR ENTRY OF DEFAULT**
16) **JUDGMENT**
17 Defendants.)
18) Date: October 30 2023
19) Time: 8:30am
19) Courtroom 10 A
19)

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21 To the court and defendant:

22 Please take notice that on October 30, 2023, or as soon thereafter as counsel may
23 be heard by the above-entitled court, located at 411 West Fourth St., Santa Ana, CA
24 92701, plaintiff will present its application for a default judgment against defendant.

25 At the time and place of the hearing plaintiff will present proof of the following
26 matters:

1. Defendant Leagle, Inc. is not a minor or incompetent person or in military service or otherwise exempted under the Soldiers and Sailors Civil Relief Act of 1940. (See Declaration of David G. Epstein at ¶ 6.)

2. Notice of the application has been served as required by Rule 55(b)(2).

3. Notice of this application for default judgment by court has been served on said defendant by September 20, 2023, in the manner previously approved by this court for service of process on this defendant. (Declaration of David G. Epstein ¶7).

4. The above-named defendant has failed to plead or otherwise respond to the complaint (*Id.* at ¶5).

5. The Clerk has entered the default of said defendant on August 30, 2023.

The application is based on this Notice, the attached Declaration of David G. Epstein, the pleadings and files in this matter, and any other matter that may be brought before the court at the hearing.

The David G. Epstein Law Firm

/s/ David G. Epstein

Dated: September 19, 2023

David G. Epstein

Declaration of David G. Epstein

I, David G. Epstein, say:

1. I am licensed California attorney admitted to their of this court. I make this declaration of my own personal knowledge and could and would so testify if called.

2. This action was filed on February 7, 2023. Summons was issued on February 9, 2023.

3. On April 14, 2023, the court authorized service of process on this defendant by electronic means (Docket 17)

4. On June 13, 2023, plaintiff filed a proof of service by said means (Docket 18).

5. Defendant has not responded in any manner to the summons and complaint and has not communicated with the undersigned. The time for a response to the complaint has passed.

6. Defendant is not a minor or an incompetent person, and is not in the military service and accordingly the Servicemembers Civil Relief Act does not apply.

7. I served a copy of this application on September 19, 2023 in the manner authorized by the court for service of the summons and complaint.

8. The defendant Leagle, Inc. publishes information about court rulings, opinions, and decisions. I am informed and believe that defendant makes money by selling attorney advertising.

9. As set forth in the complaint, Leagle, Inc. has published legal material that indicates that plaintiff Thomas was held guilty y.of civil misrepresentation. Nowhere does that material published state the fact that the action was subsequently dismissed in its entirety. Mr. Thomas, who is a real estate developer, fears that the publication of this incomplete and inaccurate information will discourage people from doing business with him and lead to financial loss.

10. Accordingly, plaintiff requests an award of nominal damages of one dollar, costs of suit, and a permanent injunction prohibiting defendant from publishing the

1 opinion in *Modarres v. Thomas*, California Second District Case No. G048684, without a
2 notation or advise that after remand, the action was dismissed with prejudice.

3 If called as a witness, I could and would testify to the matters contained herein,
4 which I know of my own personal knowledge, except for those matters stated upon
5 information and belief, and as to them, I believe them to be true.

6 I declare under penalty of perjury under the laws of the state of California that
7 the foregoing is true and correct.

8 Executed at Laguna Beach, California, on September 19, 2023.

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10 /s/ David G. Epstein

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12 David G. Epstein
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